
**APPEALS BOARD
UTAH LABOR COMMISSION**

LEANN WILSON,

Petitioner,

vs.

**BALL MANAGEMENT, dba COUNTRY
INN AND SUITES, and WORKERS
COMPENSATION FUND,**

Respondents.

**ORDER DENYING
MOTION FOR REVIEW**

Case No. 05-0557

Dr. Dan George asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Marlowe's denial of Leann Wilson's claim for payment of medical expenses under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Ms. Wilson filed an Application For Hearing with the Commission to compel her employer, Ball Management, and its insurance carrier, Workers Compensation Fund (referred to jointly as "Ball Management" hereafter), to pay the cost of medical care Ms. Wilson received for treatment of injuries allegedly suffered while working for Ball Management on April 1, 2004. Specifically, Ms. Wilson sought payment for chiropractic care provided by Dr. George.

Judge Marlowe held an evidentiary hearing on Ms. Wilson's claim and then, on April 29, 2006, issued her decision denying the claim on the grounds the medical care in question 1) had not been authorized as required by Commission rules and 2) had not been shown to be necessary.

On October 19, 2006, Dr. George filed a motion for review of Judge Marlowe's decision in which he explained he had just received Judge Marlowe's decision and disagreed with the factual basis for the decision.

DISCUSSION

Dr. George's motion for review is an effort to change the result of an adjudicative proceeding in which Dr. George did not participate. While the Appeals Board recognizes that Dr. George has a substantial interest in procuring payment through the workers' compensation system for chiropractic services provided to Ms. Wilson, the Appeals Board notes that such interests must be pursued through the procedures established by the applicable statutes. These statutes provide medical

ORDER DENYING MOTION FOR REVIEW
LEANN WILSON
PAGE 2

providers with two methods for protecting their claims for payment under the workers' compensation system.

1. Section 34A-2-801(1)(c) of the Utah Workers' Compensation Act permits medical providers to file their own Applications For Hearing with the Commission. Upon filing of an Application, the medical provider is a party to the Commission's adjudicative proceeding.
2. If an adjudicative proceeding has already been instituted by other parties, § 63-46b-9 of the Utah Administrative Procedures Act authorizes medical providers to request permission to intervene. If permission is granted, the medical provider is added as a party to the proceeding.

In a letter dated August 6, 2004, the employer's insurance carrier notified Dr. George that it would not pay for additional treatments. If Dr. George had taken either of the foregoing actions at that time, he could have participated in the evidentiary hearing and requested review of Judge Marlowe's decision. However, because Dr. George did not take the appropriate action, he does not have standing to request review of Judge Marlowe's decision.¹

ORDER

The Appeals Board dismisses Dr. George's motion for review of Judge Marlowe's decision. It is so ordered.

Dated this 14th day of November, 2006.

Colleen S. Colton, Chair

Patricia S. Drawe

Joseph E. Hatch

¹ Because the Appeals Board concludes Dr. George does not have standing to seek review of Judge Marlowe's decision, it is unnecessary to address the untimely filing of Dr. George's motion for review.